



PLANNING BOARD

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DECISION
GRAFTON PLANNING BOARD
SPECIAL PERMIT (2019-18) & SITE PLAN APPROVAL
Construction of Two-Family Dwelling
34 Elm Street, N. Grafton, MA 01536

Prentice Place, LLC, c/o Sotir Papalilo (Applicant)
Karen R. Domenico (Owner)

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Prentice Place, LLC, c/o Sotir Papalilo, 34 Elm Street Grafton, MA 01536 (hereinafter the APPLICANT / OWNER), for a Special Permit (SP 2019-18) and Site Plan Approval to construct a two-family dwelling on property located at 34 Elm Street, Grafton, and shown as Grafton Assessor's Map 10, Lot 5.0; (hereinafter the SITE), and owned by Karen R. Domenico by deed recorded in the Worcester District Registry of Deeds: Book 23324, Page 122.

I. BACKGROUND

The application for the Special Permit and Site Plan Approval (hereinafter Application) was filed with the Planning Board on November 14, 2019. A public hearing on the Application was opened on December 9, 2019. Notice of the public hearing and the subject matter thereof was published in the Grafton News on November 21 and 28, 2019, and posted with the Town Clerk's Office on November 18, 2019. Abutters were notified by First Class Mail.

The public hearing on the Application was opened on December 9, 2019. The following Board members were present throughout the public hearing: Chair David Robbins, Vice Chair Robert Hassinger, Clerk Justin Wood, Members Linda Hassinger and Prabhu Venkataraman, and Associate Planning Board member Vikram Dave. At the hearing, Sotir Papalilo (Applicant) and William Hannigan with Hannigan Engineering presented the Application to the Board. Following public input, the hearing was continued to January 13, 2020, at which time the hearing was closed. The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or in the Office of the Planning Board.

II. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

- EXHIBIT 1.** Original Application Submission, received November 14, 2019 to include the following;
- Application for Special Permit date stamped received by the Planning Board on November 14, 2019, 1 page.
 - Certificate of Good Standing, signed by Susan Rogers, dated November 7, 2019 and date stamped received by the Planning Board on November 14, 2019, 1 page.
 - Abutters Listing for 34 Elm Street, Map 10, Lot 5 signed by Tammy Kalinowski, Assessors Department and date stamped received by the Planning Board on November 14, 2019, 1 page.

- d. Letter dated November 13, 2019 by Christopher Anderson, Hannigan Engineering to Joseph Laydon, Town Planer and date stamped received by the Planning Board on November 15, 2019, 1 page.
 - e. Exterior Elevations of proposed structure date stamped received by the Planning Board on November 15, 2019.
- EXHIBIT 2. Plans: "Existing Conditions, Site Development Plan & Construction Details in Grafton, Massachusetts," prepared by Hannigan Engineering, Inc., dated November 13, 2019 and received by the Planning Board on November 14, 2019, 3 pages
- EXHIBIT 3. Public Hearing Notice, date stamped by the Town Clerk on November 18, 2019, 1 page.
- EXHIBIT 4. Email from Katrina Koshivos, Zoning Board of Appeals, dated December 2, 2019 and date stamped received by the Planning Board on December 3, 2019, 1 page.
- EXHIBIT 5. Email from Nancy Connors, Health Department, dated December 2, 2019 and date stamped received by the Planning Board on December 3, 2019, 1 page.
- EXHIBIT 6. Memorandum: "Staff Review of 34 Elm Street – Two Family," from Joseph Laydon, to the Planning Board, dated December 5, 2019, 2 pages.
- EXHIBIT 7. "Public Hearing Sign-In Sheet," dated December 9, 2019, 2 pages.
- EXHIBIT 8. "Public Hearing Continuance" Request, dated December 9, 2019, 1 page.
- EXHIBIT 9. Memorandum: "34 Elm Street," from Paul Cournoyer, Superintendent of Sewers, Wastewater Treatment Facility, to Joe Laydon, dated December 30, 2019, and date stamped received by the Planning Board on December 20, 2019, 1 page.
- EXHIBIT 10. Email from Matt Pearson, Grafton Water District, dated December 23, 2019 and date stamped received by the Planning Board on December 23, 2019, 1 page.
- EXHIBIT 11. Memorandum: "Clarification for 34 Elm Street for potentially buildable lot on a non-conforming lot," from Robert S. Berger, Inspector of Buildings/Zoning Enforcement Officer, dated January 2, 2020 and date stamped received by the Planning Board on January 2, 2020, 13 pages.
- EXHIBIT 12. Email regarding "34 Elm Street, Grafton," from Bill Hannigan, President, Hannigan Engineering, Inc., to Joseph Laydon, Town Planner, dated January 3, 2020 and date stamped received by the Planning Board on January 6, 2020, 2 pages.
- EXHIBIT 13. Plans: "Existing Conditions, Site Development Plan & Construction Details in Grafton, Massachusetts," prepared by Hannigan Engineering, Inc., dated January 3, 2020 and received by the Planning Board on January 6, 2020, 3 pages.
- EXHIBIT 14. Email from Sotir Papalilo to Joseph Laydon, dated January 6, 2020 stating the overall design of the building will be the same with the exception of the width and date stamped received by the Planning Board on January 7, 2020.
- EXHIBIT 15. "Public Hearing Sign-In," dated January 13, 2020, 1 page.
- EXHIBIT 16. Email regarding "34 Elm – Email concurring with Bob's Email," from Ginny S. Kremer, Esq., Town Counsel, Blatman Bobrowski & Haverty, LLC, to the Town Planner, dated January 15, 2020 and date stamped received by the Planning Board on January 15, 2020, 1 page.

III. FINDINGS

At their meeting of January 13, 2020, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mrs. Hassinger) voted 5-0 to make the following Findings:

- F1.** That determinations regarding the following findings are based upon the documents and plans identified in this Decision, as well as the information and EXHIBITS submitted and presented in association with the Application.
- F2.** That the application for Special Permit is being sought to raze the existing 1,159 sq. ft. single family structure and construct a two-family dwelling. The existing structure is located within the front setback and the proposed structure will comply with front, side, and rear setbacks. The property was purchased by the adjacent developer of Prentice Place in order to install sewer to allow for a gravity sewer system as part of the Prentice Place development.
- F3.** That the Site is located within the Medium Density Residential (R20) District, which permits two-family dwellings with the issuance of a special permit.
- F4.** That the lot is pre-existing non-conforming with an area of 11,761.2 sq. ft. and 100 feet of frontage, where the district minimum lot size required is 20,000 sq. ft. and the minimum frontage requirement is 125 ft.
- F5.** That during the Public Hearing, the Applicant stated the property will be purchased to extend sewer and water service from Elm Street through the property on the eastern side yard property line to serve the adjacent Prentice Place development.
- F6.** That during the public hearing, the Planning Board requested an opinion from Town Counsel regarding the ability of the Applicant to construct a two-family dwelling on the pre-existing non-conforming lot.
- F7.** That the Planning Board received a memorandum (Exhibit 11) from Robert Berger, Inspector of Buildings/ Zoning Enforcement Officer stating the lot has protection under MGL Ch. 40A Section 6 and that a two-family dwelling required a special permit from the Planning Board.
- F8.** That the Planning Board received an email (Exhibit 16) from Ginny S. Kremer, Esq., Town Counsel, stating that Town Counsel concurs with the statements made by the Inspector of Buildings/Zoning Enforcement Officer in his memorandum dated January 2, 2020 (Exhibit 11).
- F9.** That during the public hearings the Board received testimony, verbal and written, from:
 - a. Stephanie Collins-Rankin of 36 Elm Street expressed concerned regarding how this project will affect the ledge that is under all the neighborhood homes.
- F10.** That the Grafton Sewer Department (Exhibit #9) and the Grafton Water Department (Exhibit #10) submitted comments requiring additional separation of the sewer and water lines from the side yard property line and the foundation of the two-family structure.
- F11.** That the Applicant submitted revised site plans (Exhibit #13) to address comments from the Grafton Sewer Department (Exhibit #9) and the Grafton Water Department (Exhibit #10).
- F12.** That the Applicant provided responses to the Planning Board's criteria for granting special permits (Exhibit 1.d).
- F13.** With regard to Section 1.5.5 (a) of the ZBL, that based upon the Findings stated within this Decision, ingress and egress to the property and proposed structures thereon with particular reference to

automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, are adequate.

- F14.** With regard to Section 1.5.5(b) of the ZBL, that based upon the Findings stated within this Decision, off-street parking and loading areas where required, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory.
- F15.** With regard to Section 1.5.5(c) of the ZBL, that based upon the Findings stated within this Decision, refuse collection or disposal and service areas are satisfactory.
- F16.** With regard to Section 1.5.5(d) of the ZBL, that based upon the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character are adequate.
- F17.** With regard to Section 1.5.5(e) of the ZBL, that based upon the Findings stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect are compatible and in harmony with properties in the district.
- F18.** With regard to Section 1.5.5(f) of the ZBL, that based upon the Findings stated within this Decision, the required yards and other open space requirements are adequate.
- F19.** With regard to Section 1.5.5(g) of the ZBL, that the proposed use of the property (as presented in the EXHIBITS stated within this Decision) is generally compatible with adjacent properties and properties in the district.
- F20.** With regard to Section 1.5.5(h) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, they will not have a significant adverse impact on a public or private water supply. The structure will be served by Town water and sewer services.
- F21.** With regard to Section 1.5.5(i), that the Board finds that based on the Exhibits and Findings stated within this Decision that there will not be any significant or cumulative impact upon municipal water supplies since the project is outside of the Water Supply Protection Overlay District. The structure will be served by Town water and sewer services.
- F22.** With regard to Section 1.5.5(j) of the ZBL, that, based upon the Findings stated within this Decision, protection of important historic, cultural and scenic landscapes with regard to the proposed development is satisfactory. No information was received or discussed regarding this matter.
- F23.** That Section 1.3.3.2 of the ZBL requires that the procedure for Site Plan Review, as defined in the ZBL, be incorporated into the procedure for reviewing Special Permits.
- F24.** That Section 1.3.3.3 of the ZBL defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board. The Board further finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure.

IV. DECISION and CONDITIONS

At their meeting of January 13, 2020, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger,

seconded by Mrs. Hassinger) voted 5-0 to **GRANT** the Application for Special Permit and Site Plan Approval with the following conditions:

- C1.** That this Special Permit and Site Plan Approval is granted specifically for the construction of a two-family dwelling as defined by the Grafton Zoning By-Law as identified in EXHIBITS #1, #2, and #13 and as presented by the Applicant during the public hearing.
- C2.** The work authorized by this Special Permit and Site Plan Approval shall be solely for the purposes noted within Condition #1 of this Decision. Changes to plan presented in this Application may be made only upon authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change requested by the Applicant is not substantially different than the plan presented within the EXHIBITS of this Decision and is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Planning Board.
- C3.** Hours of construction and earthwork shall only occur Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays from 8:00 a.m. and 5:00 p.m. There shall be no construction activity on Sundays or State and Federal holidays.
- C4.** All maintenance of the Site hereafter shall be in accordance with all applicable Federal, State and Local regulations.
- C5.** In accordance with Section 1.5.8 of the ZBL, this Special Permit and Site Plan Approval shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.
- C6.** This Special Permit decision shall be recorded at the Worcester District Registry of Deeds within thirty (30) days following the expiration of the appeal period. A copy of such recorded Special Permit decision, including Deed Book and Page Number, shall be submitted to the Planning Board office within thirty (30) days of recording.
- C7.** By recording this Special Permit Decision in the Worcester Registry of Deeds, the applicant agrees to and accepts the conditions set forth in this Special Permit decision.
- C8.** Any modification to the use or Site as described within this Decision and as presented to the Board during the public hearing and in the above referenced EXHIBITS shall require, prior to implementing such change, a determination from the Planning Board as to whether the proposed change is substantially different than presented in the materials and information used in making this Decision. The Planning Board reserves the right to solicit comments from other Town boards, departments and committees, as well as its consulting engineer, in making determinations regarding such changes. The Planning Board may, upon its determination, require a modification of this Decision (or other approvals if deemed necessary) if it finds that the proposed change(s) are substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision. Any Modification of this Decision shall be made pursuant to Section 1.3.3 of the Zoning By-law, and any other applicable regulations.

V. RECORD OF VOTE

Constituting a majority of the Planning Board, the following members voted 5-0 to **APPROVE** the Modification of the Special Permit & Site Plan Approval Application with Conditions for the construction of a two-family dwelling at 34 Elm Street based on the information received at the public hearing and the aforementioned findings.

David Robbins, Chairman AYE

Linda Hassinger, Member AYE

Robert Hassinger, Vice Chairman AYE

Prabhu Venkataraman, Member AYE

Justin Wood, Clerk AYE

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD


William Scanlan, Interim Town Planner

1/16/2020
Date

cc: Applicant / Owner, Building Inspector, Assessor

To Whom It May Concern: This is to certify and verify that twenty (20) days have elapsed since this decision was filed in the Town Clerk's office and that no appeals have been filed in reference to same, or that, if such appeal has been filed, it has been dismissed or denied.

Kandy Lavallee, Town Clerk

Date